

REMARKS/ARGUMENTS

Claims 1 – 11 and 13-16 are currently pending in this application, as amended. By the present amendment, claims 1, 4 and 11 have been amended and claim 12 has been canceled. Applicant respectfully submits that no new matter has been introduced into the application by these amendments.

ALLOWABLE SUBJECT MATTER

In the Action, claim 11 was only objected to as being dependent upon a rejected base claim and was indicated as being allowed if rewritten in independent form. Claim 11 has therefore been rewritten in independent form to incorporate the subject matter of claims 1 and 10. Accordingly, claim 11 should now be in condition for allowance.

CLAIM REJECTIONS – 35 U.S.C. §102

Claims 1-3, 6-10, 13, 15, 16 were rejected under 35 U.S.C. §102(b) as anticipated by DE 32 05 205. Applicant respectfully traverses this rejection.

As amended, claim 1 is directed to an aerator for a plumbing fixture with the plumbing fixture comprising a water outlet. The aerator through which water flows is pivotally mounted via a swiveling mechanism and is removably fixed to a forward cylindrical outlet end of the water outlet, with the pivotable aerator being mounted within an outer ring that includes an external thread on an outer periphery thereof which is threadingly engaged in an inner thread in the cylindrical outlet end of the plumbing fixture.

DE 32 05 205 discloses an outlet armature with a water outlet which in the free outflow end region includes a support surface for a pivoting ball. The support surface includes a cross-extending guide slit (5) in which a guide pin (6) extending axially from the ball is slidably supported so that the pivoting ball can only be pivoted in a single plane. The ball is connected to the support surface using a connection piece (7) which is rotatably connected in the end region of the outlet armature. By rotating the

connection piece (7) along with tilting the ball in the plane defined by the guide pin (6) and guide slit (5), the direction of the outlet stream from the faucet can be adjusted. However, this construction is both costly and extremely difficult to manufacture due to the number of pieces and tolerances which must be provided for it to function. Additionally, changing the direction of the stream from the faucet involves both rotation of the connection piece (7) about the longitudinal axis of the outlet armature as well as pivoting of the ball within the plane defined by the guide pin (6) and slit (5). Further, the connection piece engages on an outside of the outlet armature via a sliding groove, which has the further disadvantage of being aesthetically displeasing as well as a collection point for dirt or other debris.

Additionally, there is no suggestion or disclosure of the ball being mounted within an outer ring which includes an external thread on an outer periphery thereof which is threadingly engaged in an inner thread in the cylindrical outlet end of the plumbing fixture. This provides the advantage of being able to retrofit the present aerator into existing plumbing fixtures. In contrast, it is clear that the arrangement of DE 32 05 205 requires both the plumbing fixture outlet (1) to have a special construction with the external groove (12) in order to allow for pivoting of the connection piece (7) so that the water stream can be directed in any desired direction. In view of these differences, claim 1 cannot be anticipated. Accordingly, withdrawal of the Section 102 rejection of claim 1 is respectfully requested.

Claims 2, 3, 6-10, 13, 15 and 16 depend directly or indirectly from claim 1 and should be similarly patentable for the reasons noted above in connection with claim 1.

Claims 1-3, 6, 8-10 and 15 were also rejected under 35 U.S.C. §102(b) as anticipated by U.S. 3,067,953 to Aghnides. Applicant respectfully traverses this rejection.

Aghnides is directed to a water aerator formed of a rubber body which can be pressed into the outlet opening of a plumbing fixture in order to provide an aerator. However, it is only through the action of the rubber body (40) that this aerator is held in position and nothing further is provided for making a secure connection to the outlet

armature. There is no suggestion or disclosure of a pivtoable aerator being mounted within an outer ring that includes an external thread on an outer periphery thereof which is threadingly engaged in an inner thread in the cylindrical outlet end of the plumbing fixture. Accordingly, withdrawal of the Section 102 rejection of claim 1 in view of Aghnides is respectfully requested.

Claims 2, 3, 6, 8-10 and 15 depend directly or indirectly from claim 1 and should be similarly patentable over this reference.

CLAIM REJECTIONS – 35 U.S.C. §103

Claims 4, 5, 12 and 14 were rejected under 35 U.S.C. §103 as obvious in view of DE 32 05 205. Applicant respectfully traverses this rejection. To the extent that claim 1 includes part of the subject matter of claim 12, this rejection will be addressed with respect to claim 1.

The Action states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have an outer ring with an external thread dimension typical to aerators as opposed to the arrangement of DE 32 05 205. However, given the connection piece (7) of DE 32 05 205 engaging on an outside of the outlet armature, this conclusory statement in the Action is unsupported. As an initial matter, in order for the end piece (7) to rotate about the longitudinal axis of the fixture (1) so that the water stream can be directed in any direction based on the movement of the ball being limited to a single plane via the guide slit (5) and guide pin (6), there is no suggestion or disclosure that threading the connection piece (7) into the fixture (1) would allow this rotation to take place. As is clear from Figure 1 of DE 32 05 205, this rotation of the connection piece (7) about the longitudinal axis of the fixture (1) is provided for via a glide piece (13) which is held to the connection part (7) via a screw (14), with the glide piece (13) being slidable in the groove (12). Accordingly, the rationale that the present connection of a fully swivable ball via an external thread on a periphery of the internal ring is not a mere substitution of one functional equivalent securing means for another and would require a substantial redesign and change of

function of the end fitting of DE 32 05 205. Accordingly, this cannot be considered to be obvious.

Additionally, with respect to claims 4 and 5, as the actual end connection of DE 32 05 205 is to the outside of the plumbing fixture (1), this would teach a person of skill in the art to look away from the present type of arrangement when attempting to provide a pivtoable aerator which can be mounted within an internal thread of a plumbing fixture.

Accordingly, Applicant submits that claims 5, 6, and 14 are patentable over this reference.

CONCLUSION

If the Examiner believes that any additional minor formal matters need to be addressed in order to place the present application in condition for allowance, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the present application, including claims 1-11 and 13-16, is in condition for allowance, and a Notice to that effect is respectfully requested.

Respectfully submitted,

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